IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 29TH NOVEMBER 2007 / 8TH AGRAHAYANA 1929

Bail Appl..No. 7285 of 2007()

CRIME NO.950/07 OF ADOOR POLICE STATION.

PETITIONERS/ACCUSED NO.1 & 2:

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1. BALAN, AGED 52 YEARS,
   S/O. GOPALAN, THENNAPARAMPIL VADAKKEKARA HOUSE,
   PAZHAKULAM EAST MURI, PERINGANADU VILLAGE,
   ADOOR TALUK.

2. GOPI, AGED 55 YEARS,
   S/O. GOPALAN, THENNAPARAMPIL VADAKKEKARA HOUSE,
   PAZHAKULAM EAST MURI, PERINGANADU VILLAGE,
   ADOOR TALUK.

BY ADV. SRI. K.SHAJ
SRI.B.BALRAJ
SRI.SAJJU.S

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 29/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7285 OF 2007

Dated this the 29th day of November, 2007

ORDER

Application for anticipatory bail. The petitioners are accused 1 and 2. Altogether, there are two accused persons. They face allegations for offences punishable under Sec.332 read with Sec.34 of the IPC. Measurement of an item of property was being done by the officials of the Revenue Department in discharge of their official duties. The petitioners allegedly raised objections and hindered the official work of the revenue officials. It is alleged that the revenue officials were assaulted. One revenue official has suffered injuries. A crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They may be granted

anticipatory bail, it is prayed.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances warranting or justifying the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. The learned Public Prosecutor has placed the Case Diary for my perusal. The wound certificate was brought to my notice. I have perused the same. Three fresh contusions are seen suffered by the victim. Specific allegation is made against the 1st accused even in the wound certificate.

4. The learned counsel for the petitioners submits that, at any rate, no specific overt act is alleged against the 2nd petitioner. At least, the 2nd petitioner may be granted anticipatory bail, it is prayed. I have perused the statements of the witnesses. The 2nd accused faces allegations along with the 1st accused. He is alleged to have shared the common intention of the 1st accused.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am not satisfied that the extraordinary equitable discretion under Sec.438 of the Cr.P.C. can or ought to be invoked in favour of either of the petitioners. I am satisfied that this is a fit case

where the petitioners must surrender before the learned Magistrate and seek regular bail in the ordinary course.

6. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge